

Summary of the Third Substantive Session of the *Ad Hoc* Open-ended Working Group towards a Global Pact for the Environment: 20-22 May 2019

The third and final substantive session of the *Ad Hoc* Open-ended Working Group (OEWG) established by United Nations General Assembly (UNGA) resolution 72/277 (“Towards a Global Pact for the Environment”) completed its mandate and adopted its recommendations to the UNGA, following its consideration of possible gaps in international environmental law (IEL) and environment-related instruments with a view to strengthening their implementation.

The final document, adopted by the OEWG in the early morning hours of 23 May 2019, has three sections, setting out:

- Objectives, including the reinforcement of environmental protection for present and future generations and strengthening IEL and environment-related instruments;
- Substantive recommendations; and
- Consideration of further work.

The OEWG asked UNGA to circulate its recommendations to UN Member States and members of UN specialized agencies and governing bodies of multilateral environmental agreements for consideration and action. The OEWG also recommends that UNGA forward the recommendations to the United Nations Environment Assembly for its consideration, in conjunction with the fiftieth anniversary of the United Nations Environment Programme in 2022, with a view to strengthening IEL and environmental governance.

The third and final Substantive Session of the OEWG convened from 20-22 May 2019 at the United Nations Office at Nairobi, Kenya. Some 300 participants attended, including delegates, representatives of international organizations, specialized agencies and civil society. Pre-session consultations took place in Nairobi on 19 May. Delegates arrived at agreement after a series of formal and informal negotiations, having considered draft elements first prepared and circulated by the OEWG Co-Chairs, Amal Mudallali (Lebanon) and Francisco António Duarte Lopes (Portugal), on 25 April. These recommendations took on board views from delegations at the first two sessions of the OEWG.

During the closing plenary, non-governmental organizations (NGOs) described political will as the most important gap and accused those countries most responsible for the planet’s ecological breakdown of attempting to “kill the process.” Co-Chair Duarte Lopes captured the muted tone of the session when he responded by thanking the NGOs for helping to steer

the ambition of the process, and acknowledged that the outcome was weak. Nevertheless, he said, it was based on consensus, and provides a first step in a continuing process.

A Brief History of the *Ad Hoc* OEWG and the proposal for a Global Pact for the Environment

In May 2018 the UNGA, in resolution 72/277, established an *Ad Hoc* Open-ended Working Group to consider a technical and evidence-based report by the United Nations Secretary-General (UNSG) (A/73/419) identifying and assessing possible gaps in IEL and environment-related instruments with a view to strengthening their implementation. The resolution also recommends, if necessary, consideration of the scope, parameters, and feasibility of an international instrument, with a view to making recommendations that may include the convening of an intergovernmental conference to adopt an international instrument, to the UNGA during the first half of 2019.

The resolution of 10 May 2018, “Towards a Global Pact for the Environment,” also called for the appointment of two Co-Chairs of the OEWG to oversee consultations. The UNGA requested costs to be met through voluntary contributions and that the UNSG establish a special voluntary trust fund to support the process.

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Presented by France and sponsored by 71 delegations, the resolution sought to address the challenges posed by environmental degradation in the context of sustainable development. It was adopted by a recorded vote of 143 in favor and five against with seven abstentions. Emphasizing Nairobi's standing as the environmental capital of the UN, Kenya introduced an amendment that said all substantive sessions, rather than just the initial one, must be held in the Kenyan capital.

Origins of the Process

The conceptual origins of the proposal can be found in a 2015 report by the Environmental Commission of le Club des juristes (CDJ), "Increasing the Effectiveness of International Environmental Law: Duties of States, Rights of Individuals." The CDJ proposed the adoption of a global pact for the environment to serve as a binding, universal "umbrella text" synthesizing the principles outlined in the Rio Declaration on Environment and Development, the Earth Charter, the World Charter for Nature, and other instruments shaping environmental governance. Supporters of the initiative envisage a new international instrument, modelled on the UN's human rights instruments, creating a third generation of fundamental environmental rights.

The proposal for a global pact was taken up in an initiative by the President of the French Constitutional Council, Laurent Fabius, after he presided over the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change in 2015 and began to work with Yann Aguila, leader of the CDJ. Fabius has been recently appointed as a United Nations Environment Programme (UNEP) Patron on Environmental Governance. Environmental law experts were invited to hold a high-level meeting in Paris in June 2017 to finalize and launch a draft pact after a three-month iterative process involving a Group of Experts from some 40 countries, led by members of the International Union for Conservation of Nature (IUCN) Academy of Environmental Law and the IUCN World Commission on Environmental Law. The draft was launched by the CDJ, in the presence of French President Emmanuel Macron, who committed to bringing the initiative to the UNGA.

France convened a "launch summit" for the draft pact at a side event during the high-level segment of the 72nd session of the UNGA on 19 September 2017. France and other supportive Member States then brought forward a draft resolution to the UNGA.

Key Turning Points

The OEWG convened its organizational session from 5-7 September 2018 at UN Headquarters in New York (A/AC.289/2). Duarte Lopes and Mudallali were appointed Co-Chairs of the OEWG. The OEWG agreed the dates for its first substantive session. Dates for two additional sessions were agreed for March and May 2019, and were expected to take place "unless otherwise decided" by the OEWG.

Secretary-General's Report: In line with UNGA resolution 72/277, in December 2018 Elizabeth Maruma Mrema, UNEP, announced the release of the UNSG's report entitled "Gaps in international environmental law and environment-related instruments: towards a global pact for the environment" (A/73/419). This technical and evidence-based report reviews and analyzes the corpus of IEL and environment-related instruments as well as the governance structure and implementation of IEL, identifying gaps and deficiencies.

First Substantive Session of the *Ad Hoc* OEWG: The first substantive session of the OEWG convened from 14-18 January

2019 in Nairobi, Kenya. During the week-long session, delegates considered the UNSG's report. This session was characterized by some as a "stocktaking" opportunity as delegations had their first chance to examine the state of the art in IEL and environment-related instruments. With relatively little time to prepare recommendations for the UNGA by the end of the first half of 2019, even the most ambitious delegations observed that whatever package of recommendations emerges would probably, of necessity, fall short of what is objectively needed to completely overhaul the IEL regime, given the current climate for multilateralism and the risks that would accompany any attempt to force a new normative consensus.

Second Substantive Session of the *Ad Hoc* OEWG: The second substantive session of the OEWG convened in Nairobi from 18-20 March 2019. Drawing on a summary of their deliberations at the first substantive session, circulated during the intersessional period by the Co-Chairs, and on submissions during the intersessional period by a number of delegations, participants were guided in their deliberations by four carefully crafted questions designed to form a bridge from the preliminary "stocktaking" exercise in January to a process of formulating responses and possible design options for recommendations to the UNGA. Facilitated by informal sessions, the OEWG shifted from an early focus tightly framed by the UNSG's report (A/73/419) to a more expansive and delegate-led series of questions and responses, including tentative recommendations on the form and content of options, ranging from legally-binding to non-legally-binding instruments, a high-level declaration, or other UNGA outcome that might capture and collate the international community's current ambition to renovate the international environmental law system, and environment-related instruments. This shift was facilitated by the Co-Chairs' four questions, which deconstructed themes in the Secretary-General's report, and were designed to facilitate greater ownership among delegations of the initial reflection on "options" to consider addressing principles, governance, implementation, and specific regulatory regimes of environment-related instruments, while remaining faithful to the OEWG's mandate from UNGA.

Intersessional Period: During the intersessional period between the second and third sessions, on 25 April 2019, the Co-Chairs circulated elements for draft recommendations for consideration, including: Section One (Elements related to the objectives informing the recommendations), Section Two (Elements related to the substantive recommendations), and Section Three (Elements related to the process). Section Three included draft recommendations that UNGA consider:

- the adoption of an international instrument at a high level UN conference, to strengthen IEL;
- establishment of a preparatory committee, prior to such a conference, to make recommendations to UNGA during the first half of 2020 on elements for an international instrument, including on its nature, scope and parameters;
- determining a specific timeline by which negotiations would take place and conclude; and
- establishing that the negotiations would be open to all Member States of the UN, members of UN specialized agencies, and parties to multilateral environmental agreements (MEAs), among others.

Report of the Meeting

On Monday morning, 20 May 2019, Co-Chair Amal Mudallali welcomed participants and introduced a video message from UN General Assembly President María Fernanda Espinosa Garcés, who described the environmental/climate crisis as an existential threat to life on the planet, noting impacts she had witnessed in

Lake Chad. She noted that only eleven years remain to avoid climate change's worst impacts, describing the risks and calling for smart growth to generate USD 26 trillion by 2030. She called for urgent consideration of gaps in IEL, better implementation of MEAs, and recommendations to UNGA to achieve the full potential of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs).

Elizabeth Mrema, Director, Law Division, UNEP, conveyed greetings from UNEP Acting Executive Director Joyce Msuya. She noted the critical nature of this moment in the OEWG process for delivering on its mandate. She called on delegates to find convergence on substantive, meaningful, forward-looking recommendations to be taken up at the highest level of the UN.

Co-Chair Mudallali noted the history of the OEWG and the rich discussions at its previous sessions. She called on delegates to build on its discussions so far and on inputs during the intersessional period to complete delivery on the OEWG's mandate, expressing hope that the Co-Chairs' "non-paper" would guide the debate.

Co-Chair Duarte Lopes underscored the Co-Chairs' commitment to help the body fulfil its mandate to send recommendations to UNGA. He called on delegates to strive toward success, thanking them for having engaged in informal pre-session preparatory discussions.

Delegates then adopted the provisional agenda (A/AC/289/5) and agreed on the draft programme of work.

Financing of the Activities of the Ad Hoc Open-ended Working Group

Elizabeth Mrema noted that USD 1.74 million in funding had been received and an additional USD 390,000 pledged for the period 2018-2019. She thanked France, the European Union (EU), Germany, and Portugal for their contributions and cited expenditures for the current session of approximately USD 1.5 million.

Consideration of the Draft Recommendations of the Ad Hoc Open-ended Working Group

Duarte Lopes presented the Co-Chairs' non-paper on draft elements of recommendations for the 73rd session of UNGA, organized in three parts:

- elements related to the objectives informing the recommendations of the OEWG;
- elements related to the substantive recommendations of the OEWG; and
- elements related to the process.

Duarte Lopes acknowledged that the non-paper was developed based on divergent views and sought delegates' support in reaching consensus. He noted the aim to develop draft text on recommendations as soon as possible, with text-based negotiations to then achieve a concrete outcome.

General Comments: No one objected to using the non-paper as a basis for discussion. Singapore stressed the need for a consensus outcome at this session. Many delegates also underlined the central importance of means of implementation (MOI). The US noted the absence of a consensus definition of the problem and of the expected outcome of the process. Russia, supported by Nicaragua and Brazil, called for starting line-by-line negotiation immediately. The Maldives stressed open discussion to reach consensus first.

India noted lack of consensus on gaps or meaningful solutions and cautioned that the non-paper pushed institutionalization via a new instrument with no clarity on how this would address global challenges. Norway noted that many interventions called for new

elements that could add value to the non-paper. She supported Japan on listing potential new elements.

Bangladesh noted its co-sponsorship of resolution 72/277, given its strong environmental concerns, and called for more vigorous efforts, including on eliminating poverty. Burundi linked the process to the SDGs. Turkey called for consensus on recommendations through line-by-line negotiations.

Eritrea, for the African Group, called for strengthening UNEP's role. Uganda, with Cameroon, urged adherence to the UNGA resolution, giving attention to possible gaps in IEL. He noted the OEWG's opportunity to increase coherence and enhance implementation.

Costa Rica recalled the principle of all humans' right to a healthy, ecologically balanced environment. Citing recent reports by the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Science-Policy Panel on Biodiversity and Ecosystem Services (IPBES), she called for strengthening the approach to address the current environmental crisis. She highlighted the need to strengthen MEA secretariats' role in implementation.

Cameroon said the OEWG process should be a single integrated package addressing gaps and challenges, fragmentation of IEL, principles, and implementation. Indonesia cautioned against a "one-size-fits-all" approach to IEL.

Guyana urged delegates to determine the appropriate way of strengthening international environmental governance, including economic and social elements. Chile noted that it was hosting the 25th meeting of the Conference of the Parties to the UN Framework Convention on Climate Change in December 2019.

The Federated States of Micronesia (FSM) said that the process offered a solution to IEL's main challenges, including lack of common principles, fragmentation, and the need for attention to MOI.

Many delegates welcomed the first two sections of the non-paper, with China noting their interconnections. Chile supported the sections, but noted challenges in addressing implementation, interaction, and consistency among instruments.

Discussion of the Co-Chairs' Non-Paper: Section I – Elements related to the objectives informing the recommendations of the OEWG:

Delegates generally supported this section. The EU encouraged further elaboration, including: mainstreaming environment within the UN system, protection of human rights defenders, mobilization of both private and public means of implementation, increased stakeholder engagement, and strengthening of the existing UN Environment Management Group (EMG). Morocco underlined MOI and the inalienable principles of IEL. Nicaragua underscored UNGA's mandate to safeguard the major MEAs.

Singapore called for upholding obligations under existing MEAs and strengthening IEL and "appropriate" environmental instruments. The League of Arab States called for respecting the principles of sovereignty, equity, and common but differentiated responsibilities (CBDR), given their role in achieving the SDGs. Kenya cited inadequate financing of the Addis Ababa Action Agenda (AAAA) and called for mobilizing financial and technical assistance.

Gabon noted that shortcomings in implementing IEL exacerbate global threats including loss of biodiversity. China emphasized the principles of sovereignty and CBDR and a need for additional elements. Switzerland said good environmental governance should be an overarching objective and called for strengthening UNEP.

Bangladesh noted a broad consensus not to weaken or interfere with existing agreements. Turkey cautioned that recommendations on principles of international law might run contrary to the

objectives of this section. Egypt and New Zealand said the section was not controversial and was a good basis for the main objectives. Colombia cautioned against impacting existing MEAs, and called for supporting diverse MEA efforts while ensuring coordination.

Section II – Elements related to the substantive recommendations of the OEWG: Many delegations expressed support for this section. Argentina underlined MOI and the AAAA and, with the Maldives, the role of Montevideo Programme V in supporting IEL. Mexico called for strengthened coordination between environmental bodies through UNEP. Georgia urged consideration of countries that cannot implement IEL and environment-related instruments. Brazil opposed a normative exercise on principles as duplicating the ongoing work of the UN International Law Commission (ILC) but, with Nicaragua and Tunisia, welcomed the non-paper's stress on MOI for meeting states' obligations. Nicaragua called for aligning text on MOI with SDG 17 (partnerships) and the AAAA. Brazil and Malaysia called MOI the most important gap in IEL, calling for commitments to follow through on these in existing MEAs. South Africa sought stronger reassurance that MOI would be provided.

Iran underscored upholding existing obligations, strengthening existing MEAs and related instruments, the golden rules of CBDR and sovereignty over national resources, and MOI. The EU stressed the importance of principles, calling for continuing dialogue. The US opposed discussion on international environmental principles, favoring discussion on improving coordination. Ukraine pointed out linkages with armed conflict. Egypt cautioned against re-opening discussion of contentious principles, calling for "providing," not just "mobilizing," means of implementation. Venezuela said this process should affirm existing principles such as CBDR and avoid re-interpretation.

Bangladesh stressed that the principles of existing IEL are the result of prolonged negotiations and represent a delicate balance. She noted gaps in the principles of equity, CBDR, and respective capacities, and called for focusing on MOI, finance, technology transfer, and capacity building. Ecuador called for further deliberations to take place at UNEP and the United Nations Environment Assembly (UNEA).

Singapore cautioned against implying that the UNGA is responsible for fostering cooperation and coordination between MEAs or for streamlining their reporting and monitoring processes. Russia and Bangladesh emphasized UNEP's role in global environmental affairs, noting that most points in this section fall within UNEP's remit.

Norway supported New Zealand's suggestion on adding concrete elements to this section. Burundi called for more specificity on MEAs and cooperation. Turkey called for recommendations on new environmental issues such as marine litter. Argentina said IEL is inherently fragmented, a product of decentralization, spontaneity, and non-hierarchical pluralism, stressing effective implementation of existing MEAs. Saudi Arabia and the Democratic Republic of the Congo (DRC) called for building on progress made in IEL, including the Montevideo Programme and UNEP's role in assisting implementation.

Indonesia called for better implementation of IEL while New Zealand welcomed taking stock of what IEL has already achieved. Colombia highlighted the importance of Montevideo Programme V, and the contribution that the OEWG process could make in clarifying principles and improving MEA compliance. Cuba noted that lack of MOI and coordination are primary limiting factors in the effectiveness of IEL.

Section III – Elements related to the process: Argentina, with Mexico, Brazil, the US, Russia, Japan, and the DRC noted lack of consensus on a legally binding instrument. Mexico called

for further negotiations, noting the upcoming anniversary of the Earth Summit in 2022. Ecuador objected to a proposal for a preparatory committee and cited a lack of clarity on issues such as gaps. Brazil called for more time for consultations and greater coherence among bodies that address sustainable development.

The US cautioned against a non-binding instrument as insufficient to influence governments and risks losing ground gained through previous international agreements.

Benin suggested focusing on coordination, synergies, and capacity building. A number of delegations stressed the roles of UNEP and UNEA. Argentina and Brazil called for continuing intergovernmental negotiations in Nairobi. Kenya, supported by the EU, called for strengthening UNEP as the UN system authority on the environment. The EU said its proposal for a heads of state conference could increase visibility for the issues addressed by UNEA/UNEP and the environmental dimension of sustainable development and reach beyond UNEA and environment ministers to mainstream the environment. She added that a high-level meeting was needed to address all elements, working towards a possible new instrument without prejudging outcomes, but said certain actions could be immediately taken on urgent and emerging issues, including on recommendations for the UN system and emerging issues such as chemicals management, marine plastics, and pharmaceutical pollution.

Mexico called for adopting a political declaration linked to the 2030 Agenda and the SDGs, taking account of principles and implementation.

Morocco supported establishing a committee to pursue adoption of an instrument based on the non-paper, taking into account financial and implementation aspects as in the AAAA, with a calendar for achieving tangible results. Nicaragua urged pursuit of consensus on gaps before developing recommendations.

Malaysia stressed upholding the Rio principles while opposing a global mechanism or instrument to cover existing MEAs. Singapore agreed that the OEWG should not recommend that UNGA adopt an instrument. Iran called for a proactive approach on participating in MEAs, while respecting national laws. Peru favored meeting in New York.

Malawi called for more consideration of this section and on the merits and nature of a global instrument. Côte d'Ivoire called for more regional discussion.

Kenya proposed a reference to a "document" alongside recommendations on an "instrument" in the Co-Chairs' non-paper, saying the latter implies a high-level declaration. The EU said a reference to "instrument" did not pre-judge the final outcome of the deliberations.

Russia called for deletion of the entire section on process. Norway expressed sympathy for delegates' worries about a lack of clarity on the proposal for an instrument. Bangladesh, with Burundi, said consideration of a new instrument should await broad consensus that it will add value. Turkey said there is no added value in encouraging states to ratify agreements they are not party to and no consensus on a new international framework or a conference. He favored using existing processes such as the Montevideo Programme V and UNEA.

Mexico underlined the convening role of UNEP. Argentina proposed continuing negotiations within UNEP before establishing any preparatory committee or convening a high-level meeting. Ecuador said the recommendation for a preparatory committee did not reflect the general feeling of the OEWG. He called for a paragraph recommending that UNGA circulate recommendations to Member States.

Japan noted the lack of consensus on gaps and options to address them and proposed putting forward a menu of workable solutions. Saudi Arabia, with Egypt, did not support a new

mechanism, citing the lack of consensus on gaps and the risk of complicating existing IEL.

Senegal supported the adoption of a new international instrument, highlighting the importance of capacity building, technology transfer, and coordination of IEL. New Zealand expressed openness to whatever process would best make progress. Switzerland said the process does not require UNGA, and that a celebration in 2022 of the 50th anniversary of the Stockholm Conference on the Human Environment could generate political momentum.

Guyana said UNGA is not constrained by other bodies such as the ILC, noting that the ILC did not negotiate the MEAs. He said consensus does not imply unanimity and called for flexibility. Chile said gaps and fragmentation in some areas of international law should not be a concern and agreed there was no consensus on a new global platform to address gaps. He said a new instrument could be counterproductive and lead to duplication of effort. Similarly, Canada recommended considering multiple options for the process, and noted the lack of consensus on concepts such as “gap.” He said a new instrument could reduce resources for existing ones.

The FSM expressed flexibility on the form of the future process, calling for support for developing countries’ participation, which New York-based negotiations would facilitate.

Venezuela urged a transparent, consensus-based process, avoiding creation of a new instrument and focusing on capacity building and technology transfer.

South Africa supported development of a non-legally binding instrument, while Togo expressed support for a legally binding instrument and considering socio-economic issues in implementation. Colombia called for deferring a decision on an international instrument, which would not necessarily need to be legally binding.

Raoul Renard, International Chamber of Commerce, said a global pact could improve the effectiveness of IEL and implementation of the 2030 Agenda, adding that recommendations to UNGA should align with UNGA resolution 72/277. He noted potential benefits for business of a strong pact, including increased clarity, certainty, and a level playing field.

Alexandra Lutz of CliMates, on behalf of NGOs, said a gap remains if existing instruments do not collectively address the urgent environmental problems faced, and called for a strong response rather than letting a few countries prevent decisive action.

After a short break, Co-Chair Mudallali noted divergent views remaining on process. She announced that an informal group, co-facilitated by Elizabeth Taylor (Colombia) and Solveig Crompton (Norway), would be convened Monday evening to discuss this section. She added that a revised draft of sections one and two of the non-paper would be circulated in the evening, for text-based negotiations the following morning.

Discussions of the Zero Draft: On Tuesday, Co-Chair Duarte Lopes reconvened the OEWG for further consideration of the draft recommendations. He introduced a Co-Chairs’ “zero draft” containing revisions to sections one and two of their non-paper based on suggestions from delegations. He noted that section three, on process, had been placed in brackets pending informal group consultations. Co-Chair Duarte Lopes explained that the objective of the zero draft was to bridge positions expressed by delegations and find a balanced text that would enjoy the confidence and support of the OEWG.

In the morning delegates began text-based negotiations on the objectives section in plenary; negotiations on the recommendations section then began and continued into the

afternoon. In the late afternoon and evening the informal group met to further discuss section three.

Section One (Guiding objectives): Co-Chair Duarte Lopes invited delegations’ comments on the first section of the zero draft, on objectives.

On the **section heading**, the EU, supported by Cameroon and the DRC, proposed referring to the parameters for a final outcome of the global pact for the environment process. After numerous objections to this as prejudging the outcome of the process, the EU limited its proposal to referring only to guiding objectives on the parameters of the process. The final heading refers to objectives guiding the recommendations.

On **reinforcing** protection of the environment, Indonesia proposed an additional reference to natural resources. India, supported by Bolivia, called for emphasizing sustainable management of the environment. The EU, opposed by Brazil, Argentina, and Bahrain, proposed a reference to raising environmental issues to higher levels in international and domestic agendas. Peru, the DRC, Ecuador, New Zealand, Bangladesh, Venezuela, and Sri Lanka preferred retaining the Co-Chairs’ draft text.

On **upholding** states’ respective obligations and commitments, India, supported by Brazil, Chile, Bolivia, Argentina, Egypt, Bahrain, Colombia, Tanzania, Nicaragua, Cuba, Peru, Costa Rica, Ecuador, Saudi Arabia, Venezuela, and Kenya, proposed language on MOI as a prerequisite, while Canada and New Zealand expressed reservations. Malaysia, supported by Chile, Russia, Egypt, Turkey, Nicaragua, Mexico, and Kenya, but opposed by the EU and the Gambia, proposed reference to sovereign rights over natural resources. Morocco, supported by Chile, Bahrain, and Azerbaijan, proposed specifying Member States, but Singapore, FSM, Samoa, Saudi Arabia, and New Zealand noted that not all states are members of the UN. Guyana stressed recognizing the special needs and challenges of small island developing states and least developed countries. Azerbaijan preferred the original text.

On **strengthening** implementation of IEL and environment-related instruments, Switzerland, opposed by China, Brazil, Malaysia, Chile, Argentina, Colombia, Tanzania, the DRC, and Sri Lanka, proposed adding reference to international environmental governance. Many countries supported including language proposed by Brazil on MOI.

On **supporting** the 2030 Agenda and the outcome of the Rio+20 conference, Malaysia, with Samoa, but opposed by Cuba and the DRC, proposed an additional reference to upholding and reinforcing the principles of the Stockholm and Rio Declarations.

On **not undermining** existing instruments and bodies, an Indian proposal to “enhance,” rather than “not undermine,” was supported by Chile, Senegal, and Bahrain, but opposed by Brazil, Colombia, Singapore, Turkey, Cuba, Peru, Samoa, Ecuador, the Gambia, New Zealand, Venezuela, and Kenya. The DRC preferred “respecting.”

The EU, supported by Mexico, the Gambia, and Guyana, proposed additional text on contributing to enabling swift action on a global level in areas not sufficiently addressed by the international community. This was opposed by numerous delegates.

Guyana proposed a new subparagraph recognizing the need for concrete, urgent, and ambitious action to address gaps and challenges that affect implementation of IEL.

In **general comments** on the objectives section, many delegates, including China, the US, Brazil, Argentina, Russia, Bahrain, Colombia, and Canada, expressed support for adhering closely to the Co-Chairs’ original draft rather than making many amendments.

The US opposed most of the proposals on additional or amended text on MOI and the Co-Chairs' reference to "full" implementation of the 2030 Agenda. Guatemala called for language on preventing damage to the environment and cautioned that limitations in national legal systems and parliaments hinder implementation of international law.

The EU asked delegations to adhere to the UNGA resolution's language on the OEWG's mandate and bracketed all proposals tabled on this section.

Section Two (substantive recommendations): On **UNEP**, Russia, supported by Chile, Senegal, Ethiopia, Ecuador, Kenya, Indonesia, and Malawi, but opposed by the US, the EU, and Sri Lanka, requested inclusion of additional Rio+20 outcome language reaffirming that UNEP sets the global environmental agenda. Russia, supported by Turkey, China, Benin, and Ethiopia, but opposed by Switzerland, the EU, the US, Saudi Arabia, and the DRC, also proposed language on consolidating UNEP's headquarters in Nairobi. Cameroon, supported by Senegal, Sierra Leone, Malawi, Chad, Togo, Côte d'Ivoire, and Guinea, suggested "strengthening" UNEP's role, while Canada said this needs to first be defined. Turkey, supported by Russia and Eswatini, suggested adding recognition of UNEA as the main forum to implement IEL. Georgia objected, but said that if this is kept, UNEA should be listed as only "one of" many fora. Costa Rica, with Sierra Leone, Ecuador, and Kenya, but opposed by Saudi Arabia, suggested adding UNEA as the highest-level decision-making body on the environment. Burkina Faso underscored UNEP's role in implementation, including capacity building and technical assistance.

On **MOI and the AAAA**, Argentina, with Brazil, Cameroon, Ethiopia, El Salvador, India, Congo, Bolivia, Morocco, Guinea, and Cuba, underlined the importance of MOI and proposed adding a reference to MEAs.

Argentina, opposed by the US, also proposed a recommendation that UNGA estimate the financial resources needed to achieve full implementation of MEAs. Singapore, Colombia, and the Maldives proposed a reference to "appropriate MEAs."

Ecuador, with Brazil, Egypt, the DRC, Cameroon, Ethiopia, El Salvador, India, Congo, Bolivia, Colombia, and Guinea, proposed increasing and accelerating MOI and, with Argentina and Colombia, stressed provision of MOI to developing countries. The US proposed deleting a reference to strengthening and accelerating MOI and, with the EU and Canada, called for language on consistency with the AAAA. The EU preferred "promoting" the mobilization of MOI from all types and sources, including public, private, and other.

Brazil, with Argentina, Egypt, and El Salvador, called for "additional" MOI to underline the insufficiency of existing resources, and proposed that MOI build on the AAAA.

Switzerland, with Egypt and Saudi Arabia, but opposed by China, proposed deleting a reference to "environment-related instruments." Guinea called for UNEP support for MEA implementation.

The US objected to most amendments and cautioned that proposals for AAAA language would cross lines in other fora. Opposed by India, Guinea, and Bangladesh, the US proposed a reference to recognizing states' responsibility for their own development, noting in particular the need to expand the donor pool and the critical role of national enabling environments. On furthering IEL implementation, he proposed a reference to "states' respective obligations and commitments." The EU called for a reference to enhancing political awareness.

On **promoting further discussion of IEL principles**, Russia, supported by Turkey, Guyana, and Mexico, suggested that

UNEP, through its governing bodies, be requested to promote further discussion on principles of IEL. Brazil, supported by the US, Egypt, and Saudi Arabia, opposed "further discussion" of principles of IEL, saying this is the ILC's work, and called for the deletion of the paragraph. Cameroon, the Gambia, Indonesia, Senegal, Uganda, Benin, the DRC, Morocco, Tunisia, Côte d'Ivoire, Malawi, Colombia, Gabon, Peru, and Costa Rica requested retention of the paragraph, with Cameroon calling the principles the "heart" of the global pact process. Singapore requested insertion of "appropriate international" environment-related instruments. FSM suggested "further work" instead of "further discussion" on principles. Ecuador, with Bolivia, cautioned against opening principles to discussion. Switzerland suggested deleting "and environment-related instruments." India suggested deleting "further discussion on" principles of IEL. The EU, supported by Japan, Chad, Georgia, and Chile, preferred the Co-Chairs' original text.

On **the scientific community enhancing work on interconnected issues**, Russia specified requesting "UNEP, through its governing bodies," to invite the scientific community. The US called for qualifying text on enhancing cooperation among MEAs with "as appropriate and consistent with their mandate." FSM added text on "technical and technological" communities sharing information among scientific, "technical and technological" bodies.

On **policy coherence among the governing bodies of the MEAs**, Brazil, supported by Malaysia, FSM, and the DRC, suggested combining this with the subparagraph on scientific community work on interconnected and crosscutting issues. Cameroon, with Tunisia, favored MEAs preserving their "autonomy" rather than their independence.

On **MEAs increasing cooperation and coordination**, Tunisia called for "improving" it, while Senegal favored increasing "synergy." The EU, supported by the US, specified building on work already done.

On **MEAs and scientific bodies increasing efforts to streamline reporting and/or monitoring**, Senegal noted that these must often be "improved" before they can be increased. Brazil said reference to "joint reporting" goes beyond the OEWG's mandate. Malaysia added "intergovernmental" bodies. The US favored inviting MEAs to "exchange experiences." FSM added "technical and technological" bodies, with Indonesia adding "Member States." Switzerland called for increasing "synergies" along with cooperation and collaboration, but limiting this call to UNEP.

Samoa proposed a new subparagraph inviting regional environmental organizations to strengthen synergies between regional and international agreements and to play an active role in building the capacity of Member States in the application of IEL in line with national priorities.

On **ratifying and implementing MEAs**, the US, with Turkey, preferred inviting, rather than encouraging, states. The State of Palestine, with New Zealand, Turkey, and Saudi Arabia, called for including "states members of the UN and specialized agencies." Malaysia, opposed by the US, called for encouraging states that have withdrawn from any MEA to rejoin.

On **strengthening regulatory frameworks**, Senegal, supported by Tunisia, called for reference to capacity building "across all sectors." Guyana, supported by Kenya, objected, adding text on the support of the UN system and the international community. The US called for deleting references to capacity and international law and suggested strengthening only "where needed and as appropriate." Malaysia, supported by Iran, specified applying IEL "in accordance with national circumstances"; Singapore and Colombia preferred reference to "respective legal

systems.” Egypt and Saudi Arabia preferred acknowledging the importance of international cooperation in supporting and complementing national actions. FSM specified strengthening “environmental” regulatory frameworks. Indonesia stressed CBD. India proposed deleting the entire subparagraph.

On **Member States mainstreaming environment into sectoral policies and programmes**, China said this should be done in accordance with national circumstances. The EU called for specifying “relevant” programmes, the US, sustainable development plans “as relevant,” and Singapore, “applicable” environment-related instruments.

On **promoting active and meaningful engagement of all stakeholders**, Bolivia, opposed by the US and Tanzania, called for emphasizing indigenous peoples and local communities. Tanzania cited lack of a definition of “indigenous.” The EU, with Indonesia, proposed “giving special attention to the protection of human rights defenders addressing environmental matters.” Switzerland, Turkey, Tanzania, Chile, and Egypt objected. The US and Colombia expressed hesitancy.

The EU proposed a new subparagraph encouraging Member States and relevant stakeholders, including the private sector, to facilitate investment and finance flows.

Georgia proposed a new subparagraph promoting increased efforts and exploring further ways to support implementation of IEL and environment-related instruments on the entire extent of Member States who are temporarily unable to do so.

On **Member States making full use of Montevideo Programme V**, Singapore added that this should be done in accordance with respective legal systems, and Indonesia added “as appropriate.”

On **UNEP developing UN system-wide strategies to support Member States in integrating and implementing IEL**, the EU proposed that this call should be to strengthen system-wide “interagency coordination,” in particular through the UN Chief Executives Board for Coordination. Guyana proposed reference to integrating the environment with other dimensions of sustainable development. The US favored limiting strategies to ones that could support states’ respective obligations under IEL. Switzerland called for mapping existing global and regional action plans and agreements.

Russia, supported by Turkey and Georgia, proposed a new recommendation requesting UNEP to foster increased cooperation and coordination among the governing bodies and secretariats of MEAs, and between MEAs and the governing bodies and secretariats of other environment-related instruments.

The EU, supported by Turkey and Indonesia, proposed a new subparagraph with language on swift actions to address environmental issues.

In **general comments**, Guyana accepted the recommendations as drafted. Russia specified requesting UNEP, through its governing body, to promote stakeholder involvement, explore ways for Member States to support Montevideo Programme V, and develop UN system-wide strategies on support for Member States. The EU, FSM, Indonesia, and others objected, noting that some recommendations should be made to higher governing bodies or the international community in order to give them political weight.

NGOs stated that an enhanced framework of global cooperation must address IEL.

At the conclusion of consideration of sections one and two of the zero draft, Co-Chair Duarte Lopes announced that informal negotiations on a revised section three of the Co-Chairs’ original non-paper on draft recommendations for UNGA would be convened immediately and continue into the evening.

He informed delegates that a revised draft on sections one and two of the Co-Chairs’ zero draft recommendations would be made available Tuesday evening.

Revised Co-Chairs’ draft of recommendations: On Wednesday, following a morning meeting of the informal group negotiations facilitated by Norway and Colombia, informal consultations continued throughout the day on paragraphs on means of implementation and principles, and on section three on procedural recommendations to UNGA.

Late Wednesday morning and Wednesday afternoon, Co-Chair Duarte Lopes invited delegations to comment on the revised Co-Chairs’ draft of recommendations (21 May 2019) to UNGA, cautioning against paragraph-by-paragraph negotiations.

In **general comments**, Jordan, with Saudi Arabia, urged states to refrain from textual negotiations.

Sudan, supported by Guyana, recalled the OEWG’s original mandate to discuss possible gaps in IEL, and said the text must draw attention to these gaps, including capacity building and technology transfer to least developed countries. Guyana lamented that: the strength of the recommendations was being limited by the biggest polluters; they lacked “ambition, urgency and credibility”; and would have little impact on current environmental crises.

The EU noted that the draft text had omitted mention of the importance of the recommendations to contributing to swift action on issues not addressed. Saudi Arabia said there was no consensus that “swift action is needed” to address environmental challenges. Tunisia noted the opportunity to improve the implementation of both national and international law, and to overcome environmental challenges with technical assistance.

Senegal noted that the draft did not reflect the country’s position. Uganda noted that gaps had not been addressed, and Guyana, supported by Norway, proposed a chapeau recalling the OEWG mandate to consider gaps in IEL. Argentina underlined the challenge of implementation of IEL, and noting that delegations had not agreed on gaps or principles, called for a reference to the work of the ILC. He explained that the notion of gaps in IEL would not translate meaningfully in Spanish.

Section One (Objectives guiding recommendations): On **upholding obligations and commitments**, the US, supported by Russia, preferred referring to “states” instead of “Member States and specialized agencies.” The Co-Chairs recommended their original text on “all States.”

On **not undermining existing relevant legal instruments**, Sierra Leone, opposed by Saudi Arabia, suggested adding “address gaps, overlaps, and lacunae.”

Section Two (Substantive recommendations): On **UNEP and UNEA**, the US, with Saudi Arabia, opposed listing UNEA as the highest decision-making body, while Kenya, supported by Costa Rica and Cameroon, sought to acknowledge that it was the highest decision-making body on environmental matters in the UN system. Malawi suggested strengthening UNEP’s role in line with the Rio+20 outcomes. The Kenyan proposal was taken up by the Co-Chairs. The US explained that there are decision-making bodies, such as Conferences of the Parties to MEAs that, within their purview, do not come under UNEA. The EU, supported by Mexico, Morocco, Norway, Chile, and Turkey, but opposed by the US and Saudi Arabia, proposed text on “swift action” and “consideration of global environmental issues as previously identified and adopted by UNEA.”

On **means of implementation**, the US objected to the addition of “committing to increasing” support.

The EU, supported by Canada, said that MOI is crucial for implementation but should be “consistent with” the AAAA. Egypt proposed an additional reference to the 2030 Agenda.

China requested the addition of “and instruments” after IEL, for consistency with the UNGA resolution. Egypt, with India, urged addition of MOI for implementation in developing countries. Senegal, Brazil, India, Nigeria, Morocco, Malaysia, Colombia, Ecuador, Djibouti, Nicaragua, and Egypt voiced frustration at the lack of ambition on MOI. Cameroon and Morocco noted a linkage between MOI and principles of IEL. Brazil and Egypt opposed the introduction of a reference to political awareness.

The US called for removal of **principles**, while Mauritania cautioned that this would leave the text devoid of meaning. Canada supported “further discussion” of principles, noting that many of these are already incorporated in MEAs. Russia called for the deletion of a reference to envisaging further discussion on principles. Bangladesh, Mexico, and Chile preferred to keep a reference to the “promotion” of further discussion on principles, while Bolivia called for the deletion of the paragraph.

On **streamlining reporting and monitoring**, the US, with Saudi Arabia, requested that “with a view to” streamlining be removed. Algeria stressed that implementation and monitoring of processes are most important. The Co-Chairs recommended language on encouraging the governing bodies of MEAs and scientific, technical, and technological bodies to exchange information and experiences. The US said that streamlining in any MEA is up to that body, and that streamlining need not be promoted in all cases.

On **strengthening environmental laws**, Canada, supported by Singapore and Chile, preferred to refer to capacity building in the “justice” sector instead of “judicial” or “judiciary,” to include all system elements. The DRC proposed a reference to the expertise of national administrations, including the justice and administrative sector.

Ana Barreira, Instituto Internacional de Derecho y Medio Ambiente, for NGOs, described political will as the most important gap, with countries responsible for the pollution of the planet now trying to kill off the global pact. She described the pact as crucial to reversing the current trajectory of ecological destruction, and noted that the deliberations had not reflected the urgency increasingly felt at large in the world. She added that the proposed recommendations to UNGA would make no meaningful contribution and lacked innovation as the proposals differed little from the outcomes from the Stockholm and Rio conferences. She called for an important role for UNEP and supported calls for a meeting at the heads of state level.

Informal Facilitated Consultations

On Monday, an informal working group, established by the Co-Chairs and co-facilitated by Solveig Crofton (Norway) and Elizabeth Taylor (Colombia), met in the evening to discuss the non-paper section on process. The group met on Tuesday evening and on Wednesday morning, each time discussing a new iteration of the text, with discussion centered around three main variables: the outcome, process, and venue. The resulting draft, containing two options, was forwarded to the Co-Chairs, who then undertook consultations with interested delegations to achieve a consensus document, based on linkages with recommendations in other sections of the document, most notably on means of implementation and principles.

At the outset several countries expressed fundamentally different views on what type of outcome was desirable, how an outcome should be presented, and to whom. Some progress was made when facilitators requested that countries propose safeguards or assurances they would need in order to feel comfortable with the text. One country requested an explicit assurance that the outcome would be non-legally binding, while

others requested text that would leave a range of outcomes open. Several countries reiterated a preference for keeping the process within UNEP/UNEA, suggesting that UNEA could decide whether the outcome merits a high level summit to celebrate the outcome. A handful of states preferred deletion of the entire section, or simply asking UNGA to “circulate” the OEWG outcomes; some delegates objected that this would do a disservice to the work that went into it.

Wednesday morning’s draft on process contained three options. While some delegations favored limiting discussions to an option that would have the recommendations “circulated” to UNEA and states, most expressed flexibility to discuss an option recommending that UNEA-5 consider a high-level conference commemorating the 50th anniversary of the 1972 UN Conference on the Human Environment in Stockholm, aimed at strengthening international environmental governance and the implementation of IEL, with a possible aim of producing a political declaration. Delegates generally agreed that support for this option would depend on agreement on the recommendations coming out of this process. One delegation, however, firmly opposed this option, calling for its deletion.

Closing Plenary

Co-Chair Mudallali convened the closing plenary at 8:00 pm on Wednesday evening, congratulating delegates on “making multilateralism work.” She invited comments on the third iteration of the draft recommendations.

Section Two (Substantive recommendations): On **means of implementation**, Egypt, supported by Argentina, Ecuador, India, El Salvador, Morocco, Bolivia, Nicaragua, Honduras, and Uganda, noted that this part of the Co-Chairs’ recommendations no longer referred to “increasing” support and “building on” the AAAA and the 2030 Agenda. Brazil noted the linkage with principles. The EU favored stressing the importance of ambition regarding MOI, “in line with the AAAA and the 2030 Agenda.”

On **principles of IEL**, FSM, supported by Bolivia and Mexico, expressed concern about referencing the work of the ILC, which is distinct from the work on the principles of IEL as envisaged in the OEWG process. FSM sought assurance that work on principles would not be limited to the work of the ILC. China, supported by the DRC and New Zealand, noted, however, that the work of the ILC cannot be ignored. Cameroon proposed deleting the paragraph while Bangladesh preferred reverting to the original text. Mexico, with Malawi, called for recognizing the “importance,” rather than the “role,” of discussions on principles of IEL. Russia proposed enhancing IEL “under UNEP’s auspices.”

On paragraphs on **mainstreaming and stakeholder engagement**, Egypt cautioned that references to “environment-related instruments” could be misinterpreted.

On **MEAs increasing their efforts on policy coherence**, Bolivia proposed including “other relevant stakeholders,” such as indigenous peoples and local communities, in identifying and addressing implementation challenges.

Section Three (Consideration of further work): On a paragraph on forwarding recommendations to UNEA and preparation of a political declaration for “a high-level event,” the EU, supported by Brazil, expressed concern because the reference to the event was not connected with the intergovernmental process and UNGA, and cautioned that a political declaration could be a piece of paper without value or impact, vanishing into thin air. The EU, therefore, supported by FSM, Ecuador, the Gambia, Morocco, Mexico, Nicaragua, Bangladesh, Costa Rica, Colombia, Kenya, Honduras, New Zealand, and Uganda, proposed a reference to “a UN high-level meeting,” with

Russia, supported by Nicaragua, Colombia, and the DRC adding “provided such a decision is made by UNGA.”

Brazil sought clarification that funding for an event would come from voluntary contributions. Ecuador, supported by Bolivia, Cuba, Bangladesh, and Honduras, but opposed by the EU, called for “commemorating,” rather than “taking into account the commemoration of” the creation of UNEP at the 1972 Stockholm Conference. The EU favored mentioning the Stockholm Conference before UNEP.

Ecuador, supported by Cuba, China, Bangladesh, Honduras, and New Zealand, proposed that the recommendations from the OEWG process be forwarded to UNEA as “inputs” for its consideration. Senegal described the section as disappointing because no action was proposed on a global pact. Instead it was recommended that the process be forwarded for consideration at UNEA-5 in 2021. Norway, supported by Costa Rica, FSM, and Morocco, said a “draft” political declaration should be prepared “for” rather than “at” UNEA-5. Kenya said the process leading to adoption of the political declaration should take place in Nairobi.

The US asked for clarification, indicating that she saw no need to refer to a high-level meeting or conference and saying UNEA would define the context of the next steps in the process.

FSM, with Morocco, supported working towards a political declaration. Norway cautioned that UNEA meetings on this process must be separate and complementary to UNEA-5.

Ecuador, with Argentina, Brazil, Cuba, and Switzerland but opposed by Morocco, Mexico, Bangladesh, Costa Rica, Malawi, and Colombia, proposed deleting a reference to strengthening the implementation of IEL and international environmental governance as being outside the OEWG’s mandate.

Canada expressed concerns about committing to a discussion where an outcome could be pre-judged but indicated support for clarificatory text on the event. The US suggested time to consider the comments and changes carefully.

After an extended break to allow for informal consultations among delegations with interests in the contested text, Co-Chair Mudallali reconvened the closing plenary to present a final proposal from the Co-Chairs. She expressed the hope that delegations would find it agreeable since they had tried to accommodate different positions and sought to bring the process to a fruitful conclusion. The plenary agreed on the Co-Chairs’ revised text, including newly resolved elements in the second and third sections.

Co-Chair Mudallali highlighted that delegates had reached agreement on:

- Section Two (Substantive recommendations): On the introduction of language on “enhanced” ambition in a paragraph on MOI; and a reference to “also” noting the ongoing work in the ILC on general principles of law in a paragraph on recognition of the role of discussions on principles of IEL.
- Section Three (Consideration of further work): On forwarding the OEWG recommendations to UNEA for its consideration, and to “prepare,” at its fifth session in February 2021, a political declaration for a “UN” high-level “meeting,” subject to voluntary funding, “in the context of” the commemoration of the creation of UNEP by the UN Conference on the Human Environment held in Stockholm (1972), with a view to strengthening the implementation of IEL and international environmental governance “in line with paragraph 88 of the ‘Future We Want’.”

Upon the adoption of the recommendations, Co-Chair Mudallali thanked delegates for their interventions, dialogue, and a good result.

Co-Chair Duarte Lopes opened the floor for comments. The US, offering clarification from his delegation on aspects of the agreed recommendations, noted:

- on a paragraph reaffirming the role of UNEP as the leading global environmental authority, that the governing bodies of MEAs decide their priorities, including responsibility for policy coherence; and
- on a paragraph on MOI, that the language does not imply a call for increased support from any particular country, and that there is a need for an expanded pool of donors.

Egypt noted that collective action will require enhanced action by all, with support for national efforts to advance full implementation. He regretted that the recommendation on MOI did not acknowledge in any meaningful manner the linkage between action and support, and called for increases in MOI from all sources, in the name of equity. He explained that the language on MOI had been accepted in a spirit of compromise to facilitate the work of the OEWG despite misgivings.

Norway stated that the text, although agreed, raises some questions and uncertainties. She said it is important not to overshadow existing plans for UNEA 5.

The EU stressed that the paragraph on MOI does not prejudice further discussions with regard to the provision of MOI and existing commitments.

Adoption of Draft Report: Co-Chair Duarte said that the draft report (A/AC289/6) will be posted on UNEP’s website. He noted that certain procedural elements have yet to be finalized, and asked for delegates’ trust and approval for this to be finalized after the session, with assistance from the Secretariat. Hearing no objection, the draft report was adopted.

Closure of the Session: Co-Chair Duarte thanked delegates, Co-Chair Mudallali, the co-facilitators of the informal group, and the Secretariat, for a successful meeting. He thanked NGOs for their strong intervention and the role they play in steering the process towards greater ambition. He acknowledged that the meeting had produced a weak result in terms of substance, but noted that it was on the basis of consensus and thus provides a first step to continue the process, which now has a 2022 milestone to aim for. Co-Chair Mudallali thanked conference services and Kenya for their hospitality, and wished delegates a good night. The meeting was gavelled to a close at 1:15 a.m.

Recommendations to UNGA

The final OEWG document is entitled, “Recommendations, as agreed by the working group (22 May 2019)” and has three sections.

Objectives guiding the recommendations call for:

- reinforcing protection of the environment for present and future generations;
- upholding respective obligations and commitments under IEL of UN Member States and members of specialized agencies;
- contributing to strengthening of implementation of IEL and environment-related instruments;
- supporting the full implementation of the 2030 Agenda, as well as the outcome of the UN Conference on Sustainable Development (Rio+20), including its paragraphs 88 and 89; and
- not undermining existing relevant legal instruments and frameworks, and relevant global, regional and sectoral bodies.

Substantive recommendations include:

- reaffirming the role of UNEP as the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within

the UN system, and serves as an authoritative advocate for the global environment, and the role of UNEA;

- calling for renewed efforts at all levels to enhance implementation of existing obligations and commitments under IEL, stressing the importance of enhanced ambition regarding MOI, including the provision and mobilization of all types and sources of MOI, consistent with the AAAA and the 2030 Agenda;
- recognizing the role of discussions on principles of IEL for enhancing the implementation of IEL, also noting the ongoing work in the ILC on general principles of law;
- inviting the scientific community to further their work on interconnected and cross-cutting issues by sharing information among the leading scientific, technical, and technological bodies that inform the work of MEAs and environmental processes, as well as encouraging the scientific, technical, and technological bodies to strengthen cooperation among themselves;
- inviting the governing bodies of MEAs, while preserving their independence and respective mandates, to increase their efforts to promote policy coherence across environmental instruments at all relevant levels and to consider identifying and addressing implementation challenges in their regimes, with a view to strengthening implementation at the national and international levels;
- inviting the governing bodies and secretariats of MEAs to enhance cooperation and collaboration among themselves within the scope of their respective mandates, as well as between them and UNEP and UNEA, building on work already done;
- encouraging the governing bodies of MEAs and scientific, technical, and technological bodies to exchange information and experiences, including with a view to considering the streamlining of reporting and/or monitoring processes;
- encouraging all that have not done so to consider ratifying MEAs and to effectively implement them;
- encouraging UN Member States and all members of the specialized agencies to strengthen, where needed, environmental laws, policies and regulatory frameworks at the national level, as well as the capacities across all sectors for the effective implementation of IEL, including the administrative and justice sectors in accordance with national legal systems, while acknowledging the importance of international cooperation in supporting and complementing national actions;
- encouraging UN Member States and all members of the specialized agencies to mainstream environment into sectoral policies and programmes at all levels, including into national development and sustainable development plans, to enhance the implementation of IEL and applicable environment-related instruments;
- encouraging active and meaningful engagement of all relevant stakeholders at all levels in the different fora related to the implementation of IEL and environment-related instruments;
- exploring further ways for UN Member States and all members of the specialized agencies to support and make full use of Montevideo Programme V adopted by UNEA-4, in order to foster the environmental rule of law and advance the implementation of environmental law at all levels; and
- encouraging UNEP, as Chair of the EMG and in collaboration with the members of the EMG, to continue to strengthen system-wide inter-agency coordination on the environment and to call for active involvement and support of all EMG members for the implementation of system-wide strategies on the environment.

Under consideration of further work, the OEWG recommends that UNGA:

- circulates the above-mentioned recommendations and makes them available to UN Member States and members of specialized agencies and the governing bodies of MEAs for their consideration and action, as appropriate; and
- forwards these recommendations to UNEA for its consideration, and to prepare, at its fifth session in February 2021, a political declaration for a UN high-level meeting, subject to voluntary funding, in the context of commemoration of the creation of UNEP by the UN Conference on the Human Environment held in Stockholm from 5-16 June 1972, with a view to strengthening the implementation of IEL, and international environmental governance in line with paragraph 88 of the “Future we Want.”

A Brief Analysis of the Meeting

*And I won't let you get me down
I'll keep gettin' up when I hit the ground
Oh, never give up, no, never give up no, no, oh
I won't let you get me down*
(“Never Give Up” From the movie “Lion” by Sia)

In his closing remarks, *Ad Hoc* Open-ended Working Group (OEWG) Co-Chair Francisco António Duarte Lopes looked across a conference room filled with exhausted delegates and, in a moment of refreshing candor, apologized that the OEWG's outcome was weak, but was pleased it was based on consensus and the basis for continuity. It was a direct signal to those in the room and beyond that nobody had given up on the process. It was also an appeal to believe in the continuing potential of what remains of the vision for a global pact and an invitation to engage with the journey to come. Thus the outcome in Nairobi was a milestone in a United Nations General Assembly (UNGA)-mandated process that continues to bear the signature of its somewhat unorthodox origins.

This was the third and last meeting of the OEWG that had been mandated to deliver recommendations to the UNGA based on the proposal of an alliance of eminent French and other legal scholars, le Club des juristes, and senior French politicians, including French President Emmanuel Macron and Laurent Fabius. Observers have commented on the unconventional arrival of the “global pact” agenda onto that of UNGA. Some observed that the French champions of the agenda “skipped the line” by avoiding the traditional procedural routes. This is said to have ruffled feathers in parts of the multilateral system and has contributed to a sense that the “pact” concept has not been properly embedded or fully understood. Even on the final day of the OEWG at least one delegate repeated a claim that negotiators were struggling with the meaning of “gaps.”

The absence of language in the OEWG recommendations directly referencing the original French-sponsored proposal for a “Global Pact on the Environment” suggests that the resulting OEWG conversation and recommendations now need more time to land within the UN system and become re-articulated, taking account of the complex factors that bear down on attempts to innovate in the field of IEL and environment-related instruments, not least the current state of multilateralism.

Over three days, the meetings stretched into the evenings, reflecting the intensity of discussions, the proliferation of contested issues, and the significant efforts made by the Co-Chairs to seek consensus. As Duarte Lopes remarked, “This process has always had some characteristics that make it difficult to steer.” In the end, the hurdles encountered proved

surmountable, but at some cost to the integrity of the intention and ambition of the original proposal. While the resulting recommendations are weaker than proponents of a pact had sought, the recommendations allow for UNGA and the United Nations Environment Assembly (UNEA) to meaningfully continue the process, which leaves open the possibility of a package more in line with the ambitions of its champions.

This brief analysis will explore some of the key issues raised at this third and final session of the OEWG to amplify what factors influenced the shape and content of the outcome.

Lost in Translation?

As described by a legal scholar attending the meeting, the original Club des juristes' vision for the Global Pact reflects a set of ideals for global environmental governance based on legal and academic reflections on the shortcomings of the current system. Participants were aware that the past half-century has seen the proliferation of multilateral environmental agreements (MEAs) and a complex web of institutions and processes for seeking change within that system. The Club des juristes are representative of many in the legal and academic professions who work in the frontlines of implementing IEL and environment-related instruments and have come to understand demands for far-reaching change. Many legal practitioners and scholars advocating a re-imagined role for IEL are also environmental defenders of the most threatened communities and have seen core ecological principles enshrined in some national constitutions in some regions of the world. These legal scholar activists have particular insights into the ways in which some IEL principles have taken on a life of their own. In a sense, according to one participant, the UN system is at a point in its history where it can begin to harvest these developments and build on them. But the route chosen by the juristes, via the UNGA, also meant that a very weak outcome from the OEWG was perhaps to be expected given the shortage of time, the requirement for consensus building, and a clear lack of sympathy or engagement among powerful states from the outset, for a variety of reasons.

The nature of the transmission of the global pact proposal to the UN system has shaped the institutional reception given to the idea of the global pact, especially as it currently lacks a clear connection to the emerging groundswell of concern for a response to an urgently recognized problem such as climate change. While the Club des juristes' unorthodox route successfully fast-tracked access to the UNGA's agenda, setting in motion the OEWG process, this has had a curious impact. The fundamental critique of the fifty years of incremental and fragmented developments in IEL and environment-related instruments offered by champions of the pact clearly comes at a time when global civil society, notably those who embody demands for inter-generational climate justice led by Greta Thunberg and her allies, are crying out for ambition. However, having fast-tracked their access to the UN system, the champions of the pact have been forced to re-calibrate their expectations, both in terms of the need to disseminate and communicate their objectives to a global public and in terms of building alliances within existing multilateral institutions. The debates around the need for a pact risk being lost in translation within the multilateral system, even though, as some delegations have argued, there is a clear linkage between the intentions behind the global pact and emerging popular demands to empower the principle of integration that lies at the heart of sustainable development. Some of the interventions at the OEWG began to reflect this when they sought to entrench the conversation within the context of the 2030 Agenda and the Sustainable Development Goals.

The fast-tracked advance of the notion of a global pact into a UN process was helped along by the fact that UNGA resolutions have only to be passed by a majority of states, not by consensus. In this, UNGA resolutions are not typical of the approaches normally taken to building consensus for the 500+ international environmental instruments that make up the system known as IEL. The conventional approach of having to build a working consensus for environmental agreements, sometimes in the context of strong or even hostile opposition, has shaped IEL. OEWG participants observed that the champions of the pact "learned the hard way" that there are no shortcuts. Those who harbored resistance to the idea from the outset, saw and seized their opportunity during the OEWG process to downgrade French ambitions.

As one delegate commented, fear played a role and ultimately shaped the outcome: fear of losing sovereignty, fear of complicating existing MEA regimes, fear of opening up established principles and their varied/contested application, and, significantly for developing countries, a fear of committing to steps that they lack the capacity to implement. The latter issue was reflected in enduring controversies over common but differentiated responsibilities and means of implementation. It came as no surprise that resistance to the negotiation of a future agreement—binding or otherwise—was strongly asserted by some delegations. Some of the resistance was clearly spelled out in the intersessional submissions to the Co-Chairs. After the first 24 hours of debate in Nairobi some delegates reported that "the dragon has been slain," once proposals for a new binding instrument were taken off the table. It seemed, from this point onwards, that just keeping the process on track became the benchmark of ambition for advocates of change.

As a participant with deep institutional memory of the development of IEL observed in the dying hours of the OEWG, however, the conversation around a global pact will not go away because it taps into and resonates with a wider set of emerging public concerns about the adequacy of national and international responses to the climate emergency and ecological breakdown.

"Never Give Up"

While the formally agreed recommendations, in the words of Co-Chair Duarte Lopes, are "weak," particularly when compared to the ambition of the original French project, the pact's champions have not given up. The EU succeeded in its push for a UN high-level meeting to be included in the OEWG's recommendations. This was interpreted as a win because it keeps the doors open for the conversation initiated by the global pact proposal to survive and inform a wider global conversation and set of aspirations that may be unleashed by the landmark 50th anniversary of the UN Conference on the Human Environment. For some, the UNGA President's video message on the session's first day was indicative of her close engagement with the process, which gave hope that the doors remain open to rescue the initial ambition for the pact once the intention has been fully articulated as a potential contribution, for example, to the 2030 Agenda and beyond.

NGO-led public engagement and advocacy will be an important factor in determining whether this agenda flourishes on its way back to the UNGA and beyond. Tying this process to the 50th anniversary of the Stockholm Conferences in 2022, establishes a compelling intergenerational timeline that can in itself animate and mobilize support within and beyond the UN system. Events to mark this milestone will help recast the modest and halting beginnings of a conversation at the OEWG within calls for a more urgent, systematic, and principled response to

climate change and growing awareness of threats to the survival of many species, including, as one delegate soberly remarked during the negotiations, our own.

Upcoming Meetings

56th Meeting of the GEF Council: The Council, which meets twice annually, develops, adopts, and evaluates the operational policies and programs for GEF-financed activities. It also reviews and approves the work program (projects submitted for approval), making decisions by consensus. **date:** 10-13 June 2019 **location:** Washington D.C., US **contact:** GEF Secretariat **phone:** +1-202-473-0508 **fax:** +1-202-522-3240 **email:** Secretariat@thegef.org **www:** <https://www.thegef.org/events/56th-gef-council-meeting>

World Forum on Climate Justice: The World Forum on Climate Justice, organized by Elsevier, in partnership with the Glasgow Caledonian University (GCU) Centre for Climate Justice, will bring together civil society groups, academics, business representatives, and policymakers to explore “pressing topics in climate justice advocacy, research, policy, and practice as we adapt to reach the 1.5°C goal.” The Forum cuts across all the SDGs, and aims to promote excellence in research by enabling discussion and debate on climate justice. The event will provide a platform for collaboration, networking, and wider engagement. **dates:** 19-21 June 2019 **location:** Glasgow, Scotland, UK **www:** <https://www.elsevier.com/events/conferences/world-forum-on-climate-justice/>

HLPF 2019: The High-level Political Forum on Sustainable Development will address the theme, “empowering people and ensuring inclusiveness and equality.” It will conduct an in-depth review of SDG 4 (quality education), SDG 8 (decent work and economic growth), SDG 10 (reduced inequalities), SDG 13 (climate action), and SDG 16 (peace, justice and strong institutions), in addition to SDG 17 (partnerships), which is reviewed each year. Among other items, the Forum will consider the Global Sustainable Development Report (GSDR), which is issued every four years. **dates:** 9-18 July 2019 **location:** UN Headquarters, New York **contact:** UN Division for SDGs **fax:** +1-212-963-4260 **email:** <https://sustainabledevelopment.un.org/contact/> **www:** <https://sustainabledevelopment.un.org/hlpf/2019>

UNCCD COP 14: The 14th meeting of the Conference of the Parties to UN Convention to Combat Desertification (UNCCD) is expected to review the progress made to control and reverse further loss of productive land from desertification, land degradation, and drought. **dates:** 2-13 September 2019 **location:** New Delhi, India **contact:** UNCCD Secretariat **phone:** +49-228-815-2800 **fax:** +49-228-815-2898/99 **email:** secretariat@unccd.int **www:** <https://www.unccd.int/>

UN 2019 Climate Summit: UN Secretary-General António Guterres will convene the UN Climate Summit under the theme “A Race We Can Win. A Race We Must Win,” to mobilize political and economic energy at the highest levels to advance climate action that will enable implementation of many of Sustainable Development Goals. Its aim to challenge states, regions, cities, companies, investors and citizens to step up action in nine areas: mitigation; social and political drivers; youth and public mobilization; financing; energy transition; industry transition; nature-based solutions; infrastructure, cities and local action; and resilience and adaptation. **date:** 23 September 2019 **location:** UN Headquarters, New York **www:** <http://www.un.org/climatechange/>

SDG Summit: The HLPF, under the auspices of the UN General Assembly, will assess progress achieved since the adoption of the 2030 Agenda in September 2015 and provide

leadership and guidance on the way forward that would help accelerate implementation of the 2030 Agenda and SDGs.

dates: 24-25 September 2019 **location:** UN Headquarters, New York **contact:** UN Division for Sustainable Development Goals **fax:** +1-212-963-4260 **email:** <https://sustainabledevelopment.un.org/contact/> **www:** <https://sustainabledevelopment.un.org/summit2019>

2019 UN Climate Change Conference: The 25th session of the Conference of the Parties (COP 25), the 15th meeting of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP), and the second meeting of the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA) will convene to review implementation of the Paris Agreement and the Convention.

dates: 2-13 December 2019 **location:** Santiago, Chile **contact:** UNFCCC Secretariat **phone:** +49-228-815-1000 **fax:** +49-228-815-1999 **email:** Secretariat@unfccc.int **www:** <https://unfccc.int>

CBD COP 15, Cartagena Protocol COP/MOP 10, and Nagoya Protocol COP/MOP 4: The 15th meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP 15), the 10th Meeting of the Parties (COP/MOP 10) to the Cartagena Protocol on Biosafety and the 4th Meeting of the Parties (COP/MOP 4) to the Nagoya Protocol on Access and Benefit-sharing are expected to address a series of issues related to implementation of the Convention and its Protocols, and adopt the post 2020 global biodiversity framework. **dates:** October 2020, exact dates to be confirmed **location:** Kunming, China **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <https://www.cbd.int/>

UNEA-5: The theme of the fifth session of the UN Environment Assembly will be decided by the Committee of Permanent Representatives. UNEA-5 will be preceded by the fifth meeting of the Open-Ended Committee of Permanent Representatives from 15-19 February 2021. **dates:** 22-26 February 2021 **location:** Nairobi, Kenya **contact:** UNEP Secretariat of the Governing Bodies **email:** unep-sgb@unep.org **phone:** +254-20-7623431 **www:** <http://web.unep.org/environmentassembly/>

For additional meetings, see <http://sdg.iisd.org>

Glossary

2030 Agenda	2030 Agenda for Sustainable Development
AAAA	Addis Ababa Action Agenda
CBDR	Common but differentiated responsibilities
CDJ	Club des juristes
DRC	Democratic Republic of the Congo
EMG	UN Environment Management Group
FSM	Federated States of Micronesia
IEL	International environmental law
ILC	International Law Commission
IPCC	Intergovernmental Panel on Climate Change
MEAs	Multilateral environmental agreements
MOI	Means of implementation
NGOs	Non-governmental organizations
OEWG	<i>Ad Hoc</i> Open-ended Working Group
Rio+20	2012 UN Conference on Sustainable Development
SDGs	Sustainable Development Goals
UNEA	United Nations Environment Assembly
UNEP	United Nations Environment Programme
UNGA	United Nations General Assembly
UNSG	United Nations Secretary-General